

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOCELYN ESTRELLA on behalf of
M.R.E., an infant,

Plaintiff,

-against-

CAROLYN W. COLVIN,

Defendant.
-----X

SCHEDULING ORDER
IN SOCIAL SECURITY CASE

15CV6966 (CS)(LMS)

LISA MARGARET SMITH, United States Magistrate Judge

By Order dated September 4, 2015, Judge Seibel referred this case to me for a report and recommendation. Plaintiff, who is represented by counsel, has brought this action pursuant to 42 U.S.C. § 405(g), seeking review of a denial of social security disability benefits.

Once service of the summons and complaint has been effected, the Civil Division of the United States Attorney's Office for the Southern District of New York, on behalf of the Commissioner of Social Security (the "Commissioner"), will have sixty (60) days from the date of service to answer the complaint. The answer must be accompanied by a transcript of the record below. The purpose of this Order, in part, is to put the Commissioner on notice that she should take steps now to have the transcript produced in a timely fashion so as to ensure that Plaintiff is able to have a just and speedy resolution of her complaint, as is contemplated by the Federal Rules of Civil Procedure.

After the summons and complaint have been served and before the answer is due, Counsel for Plaintiff must send a letter to the assigned Assistant United States Attorney identifying the Plaintiff's strongest arguments in support of her complaint in order to determine if the case can be settled.¹ The assigned Assistant United States Attorney should respond to this letter either by telephone or in writing. The purpose of this requirement is to encourage the parties to engage in the early identification of cases that might be amenable to resolution before significant resources are expended and to ensure prompt handling of Plaintiff's complaint.

If the parties are unable to resolve the matter after the exchange discussed above has taken place, the Plaintiff must submit a motion for judgment on the pleadings no later than thirty (30) days from the date of the filing of the Commissioner's answer. The motion must be accompanied by a supporting memorandum of law that makes specific citation to the parts of the record on which the Plaintiff relies.

The Commissioner shall submit her response to the Plaintiff's motion within thirty (30) days of the service of the motion. Said response must include a memorandum of law with specific citations to the parts of the record on which the Commissioner relies.

¹The assigned AUSA should contact Plaintiff's counsel as soon as the case has been assigned to him or her so that Plaintiff's counsel knows to whom he should direct his letter.

Plaintiff may submit a reply within ten (10) days after service of the Commissioner's response.

Requests for extensions of the deadlines set by this scheduling order may be granted by the Court, but only if made in advance of the deadline and good cause is provided for the request.

Any stipulation entered between the parties including, but not limited to, a remand to the Commissioner of Social Security for further proceedings must be approved by Judge Seibel, unless the parties consent to the undersigned's jurisdiction over the case for all purposes as discussed further below. The parties are advised that a remand to the Commissioner for further proceedings is not necessarily a final disposition of the case, and Plaintiff may be entitled to seek further review of any additional proceedings before the Commissioner.


Copies of all filings should be mailed or delivered to the undersigned at 300 Quarropas Street, White Plains, NY 10601.

The parties shall advise the Court as to whether they jointly consent to decision of this action by a United States Magistrate Judge (that is, the undersigned), pursuant to the enclosed form. If both parties consent, they should complete counterparts of the forms and return them to my chambers. If either or both parties do not consent, counsel for Plaintiff shall report to chambers that the parties do not consent, without indicating any particular party's consent or non-consent. This Order is not meant to interfere in any way with the parties' absolute right to decision by a United States District Judge (in this case, Judge Seibel), but is merely an attempt at preserving scarce judicial resources and reminding the parties of their option pursuant to 28 U.S.C. § 636(c).

Plaintiff shall notify the Court, in writing, whether the parties consent no later than the date by which the answer is filed.

SO ORDERED.

Dated: White Plains, New York
October 2, 2015



LISA MARGARET SMITH
United States Magistrate Judge

Copies of this Order have been sent by ECF to counsel and by mail to:

Chief, Civil Division
United States Attorney's Office
86 Chambers Street, 3rd Floor
New York, New York 10007

UNITED STATES DISTRICT COURT
for the
Southern District of New York

Plaintiff)	
v.)	Civil Action No.
Defendant)	

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

<i>Parties' printed names</i>	<i>Signatures of parties or attorneys</i>	<i>Dates</i>

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: _____

District Judge's signature

Printed name and title

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.

